

1 that sounds like something I would do.

2 Q Yes. And you testified to this in
3 your deposition, did you not?

4 A I guess so.

5 Q And Tennis Channel was one of the
6 networks that you communicated to the field
7 that was supposed to be on the sports tier.
8 Correct?

9 A I believe that's what I just
10 testified to.

11 Q You let the field know that Tennis
12 Channel should be on the sports tier.
13 Correct?

14 A That's correct. That was our
15 strategy.

16 Q And the sports tier was the
17 strategy of Comcast.

18 A Yes, we wanted to launch a sports
19 tier.

20 JUDGE: You mean that Comcast
21 wanted to launch a sports tier. Is that your
22 testimony?

1 THE WITNESS: That's right.

2 Comcast Cable had several deals with several
3 different sports channels that didn't perhaps
4 have major league games on them or they were
5 a little bit more specific to a genre like
6 soccer. And we wanted to create more customer
7 choice.

8 Comcast is always hearing from our
9 customers that we have these great big
10 packages of services that costs tons of money.
11 And people don't watch half the services,
12 etc., etc. So we started cobbling together a
13 bunch of these sports tier services and
14 creating a sports pack. So that real sports
15 fans could buy that pack.

16 BY MR. PHILLIPS:

17 Q Ms. Gaiski, during the time when
18 you were putting together those services, you
19 never considered putting the Golf Channel on
20 the sports tier, did you?

21 A Golf Channel was fully
22 distributed. It had been fully distributed

1 since I think 1995 and we didn't have a
2 contract that permitted us to do that.

3 Q I'm sorry. Ms. Gaiski, if you
4 could get to my question. You never
5 considered putting Golf Channel on a sports
6 tier.

7 A No, we did not.

8 Q Not at any time ever. Correct?

9 A That's right.

10 Q Not even at the renewal
11 negotiations. Correct?

12 A That's right.

13 Q Okay. And you never ever
14 considered putting Versus on the sports tier,
15 did you?

16 A That's right.

17 Q Not at any time. Correct?

18 A That's right.

19 Q And with respect to the Hockey
20 Channel, it used to be on a sports tier.
21 Correct?

22 A It was solely on a sports tier for

1 a while. Yes.

2 Q Right. And after a transaction in
3 which Comcast acquired equity it moved from
4 the sports tier to a broadly distributed
5 digital tier. Correct?

6 A That's right. But it was more
7 than just an equity deal.

8 Q And with respect to the Baseball
9 Channel, it was never on any tier. But when
10 it did a deal with Comcast in which it gave
11 equity it got distributed on a broadly
12 distributed digital tier. Correct?

13 A Which one was that?

14 Q The Baseball Channel.

15 A Baseball. Yes, Baseball went to
16 D1.

17 Q Right. Now I'd like to go back
18 and talk to you about this May 2009 meeting
19 and offer. Do you recall that Mr. Bond
20 mentioned to Mr. Solomon that Tennis Channel
21 needed to offer a financial incentive?

22 A In the May 2012 meeting?

1 Q Yes.

2 A I don't recall -- I'm sorry.

3 Q Or in the phone calls leading up
4 to. Were you aware of that?

5 A Not any specific proposal that he
6 made to him. But generally those were the
7 talking points that economically it was a lot
8 of money to melt it down and that we needed to
9 somehow fix the fee so that it could be a
10 lower aggregate fee.

11 Q Was there any discussion about
12 what level of fee the Tennis Channel could
13 reduce its prices to that Comcast would
14 accept?

15 A I don't recall anything specific.

16 Q Okay. And in fact any fee that
17 Comcast -- Because of the broader
18 distribution, any per channel subscriber cost
19 that Tennis Channel would have offered would
20 have increased the amount of cost to Comcast,
21 wouldn't it?

22 A Yes.

1 Q Now did Comcast make a
2 counteroffer?

3 A I don't recall specifically.

4 Q Did Comcast ask for anything in
5 return for Mr. Solomon's proposal?

6 A Which proposal?

7 Q His May 2009 proposal?

8 A Did we ask for anything --

9 Q Yes. Negotiation. Here's my
10 proposal. Did you ask for something back?
11 Did that happen?

12 A He gave us a proposal. We told
13 him we weren't interested. And we said that
14 we would continue to work with our field, keep
15 an open door and talk to Tennis Channel some
16 more.

17 Q Right. And work with your field
18 and keep the door open, essentially the status
19 quo for the Tennis Channel. Correct?

20 A It's true. That's what we had
21 been doing for quite a few years.

22 Q Now in making the analysis that

1 you talked about, you said that you looked at
2 the expense side of it and you also looked at
3 the field side of it. Did you do any written
4 analysis of additional subscribers or upgrades
5 that might result from melting Tennis Channel
6 down?

7 A That would be the field's job to
8 do that.

9 Q Okay. But you didn't do that, did
10 you?

11 A No.

12 Q Okay. And you never saw any
13 written analysis in that fashion, did you?

14 A No.

15 Q And did you think about additional
16 revenues that could be generated through, for
17 example, sales of advertisements?

18 A No, ad sales are de minimus.

19 Q Okay. But you never gave any
20 consideration to that. Correct?

21 A No, I did not.

22 JUDGE: How would you know how

1 much the services were doing out in the field
2 in that regard?

3 THE WITNESS: With regard to ad
4 sales?

5 JUDGE: Yes. With just what you
6 testified to. You don't participate in that
7 aspect of the relationship with the channel.
8 Correct?

9 THE WITNESS: With -- I'm just
10 clarifying. You asked me two questions. With
11 regard to advertising sales?

12 JUDGE: With regard to advertising
13 -- Well, yes. That and what was the other?

14 THE WITNESS: The other one was I
15 think that he was asking about subscriber
16 acquisition analysis.

17 JUDGE: That's the one. That's
18 the bingo one.

19 THE WITNESS: That's really up to
20 the field. I don't have any way of telling
21 corporate headquarters what an individual
22 cable system thinks their customers want and

1 thinks what they can be if they want to
2 channel and/or melt a channel down.

3 JUDGE: Well, don't you want to
4 know that periodically?

5 THE WITNESS: That's why I set the
6 field phone call up.

7 JUDGE: I mean on a regular basis.
8 Does the field report to you, let's say,
9 quarterly or whatnot on that kind of a
10 question?

11 THE WITNESS: Not specifically.

12 JUDGE: No?

13 THE WITNESS: Not within my role
14 they don't, sir.

15 JUDGE: Who else at headquarters
16 would they be working with on that if at all?

17 THE WITNESS: There's a group
18 called Financial Planning and Analysis.

19 JUDGE: Yes.

20 THE WITNESS: Who collects all
21 subscriber data. And I'm presuming the field
22 would work through them.

1 JUDGE: But you don't see what I'm
2 saying. I'm not saying that specific -- I'm
3 not talking about specific information on new
4 subscribers. I'm saying projections. We're
5 paying the expense of carrying these X, Y and
6 Z channels programming.

7 THE WITNESS: Yes.

8 JUDGE: Does the home company want
9 to know from time to time what are the
10 prospects for the subscriber base to increase
11 as a result of carrying that programming?

12 THE WITNESS: It's not my area of
13 expertise. I would assume that the Financial
14 Planning and Analysis group takes care of
15 that. And they look at subscriber growth. If
16 the field doesn't find that subscribers are
17 growing, what do they need to grow? Do we
18 need more video product? Do we need higher
19 speed? A high speed internet or do we need
20 mobile phone service? That type of thing.

21 JUDGE: Okay. All right. In your
22 role with respect to contact in the field,

1 it's not hard in a sense that if a situation
2 goes up that calls for contacting them then
3 you will. But you're no -- There's no
4 continuing contact with the field offices from
5 your office.

6 THE WITNESS: Oh yeah. On a
7 regular basis, they're calling me and telling
8 me "Hey, how's your deal going with this
9 channel?" "When can I launch that channel?"
10 "Oh, by the way, this channel came in and
11 pitched to us." There's a very open line of
12 communication.

13 JUDGE: All right. Okay. You're
14 answered my question. We'll see what the
15 record looks like.

16 Go ahead.

17 BY MR. PHILLIPS:

18 Q Ms. Gaiski, now you didn't talk to
19 anybody from Financial Planning and Analysis,
20 the group you just mentioned, in connection
21 with the offer made by Tennis Channel, did
22 you?

1 A No, I did not.

2 Q Okay. And now during the renewals
3 of Golf and Versus, you didn't go out and do
4 any field surveys before those, did you?

5 A No, I did not.

6 Q Let's talk about this field survey
7 for a second. You talked about Mr. Bond's
8 instruction. You checked with the field. You
9 mentioned the four people you checked with.
10 Did you tell the field -- Did you send them
11 the financial analysis that Mr. Solomon had
12 presented on May 9th?

13 A Mr. Solomon's proposal, I can't
14 recall if I sent them that or not or if I just
15 talked them through it.

16 Q Did you see any written data
17 analyzing subscriber interest in connection
18 with these field conversations?

19 A No, I didn't.

20 Q Okay. Did you ask them to go out
21 and survey the systems and get back to you
22 with written results?

1 A I believe that when I sent the
2 deck from Mr. Solomon that I asked them to
3 talk to their field folks.

4 Q Okay.

5 A And that at the end here you can
6 see I wrote a note here asking them to talk to
7 their field folks.

8 Q Right. Let's stay on that for a
9 second. What time of day did you have that
10 conversation on June 8th?

11 A I don't recall.

12 Q Was it morning or afternoon?

13 A I don't recall.

14 Q You don't know. And because the
15 conversation with Mr. Bond and Mr. Solomon,
16 what day was that?

17 A I don't recall. It was a few days
18 later.

19 Q It was June 9th, wasn't it? It was
20 the very next day.

21 A I don't recall.

22 Q Right. So you hadn't had the

1 opportunity to really get back the field
2 results, had you?

3 A Well, I asked them when I first
4 sent the deck down to them which was probably
5 a week or so before the call to talk to the
6 field. I asked them again to talk to the
7 field. And I do specifically remember calling
8 back about Charleston several days later even
9 after our meeting with Ken Solomon.

10 Q But you never saw any written data
11 or any written survey information, did you?

12 A I believe you asked me that
13 already, but, no, we did not.

14 Q And in fact Comcast keeps customer
15 surveys, but you didn't check with any of
16 those before this decision was made, did you?

17 A Well, I don't see customer
18 surveys. And I would think my field would
19 have a good grip on their customer surveys.

20 MR. PHILLIPS: Let's turn to
21 Exhibit 130 if we could. There is at 130,
22 Your Honor, Ms. Gaiski's handwritten notes

1 taken on June 8, 2009.

2 JUDGE: All right.

3 BY MR. PHILLIPS:

4 Q And I want to just -- Do you have
5 those in front of you, Ms. Gaiski?

6 A I do.

7 Q I'd like to just walk down a few
8 of the points with you. I think you said --
9 By the way, you mentioned Charleston, Atlanta
10 and Jacksonville. Did you discuss these
11 cities with the Tennis Channel after this?

12 A No, I don't recall.

13 Q Okay. Now you said that east said
14 that the Tennis Channel customers are so
15 affluent that it doesn't make sense to melt
16 them down. Correct? They can just pay for
17 it. Right?

18 A I believe that was their point.

19 Q Right. Well, Golf Channel viewers
20 are also very affluent, aren't they?

21 A I don't know the Golf Channel's
22 demographics.

1 Q Has anybody ever said to you,
2 "Gosh, the Golf Channels viewers are so
3 affluent that they should be on the sports
4 tier. They can pay the extra money"? Did
5 ever hear that?

6 A No.

7 Q Never asked the question either,
8 did you?

9 A No.

10 Q Now let's keep going down. It
11 says, "Strong product." That's the Tennis
12 Channel they're referring to. Right?

13 A That's right.

14 Q Okay. "And it's strong to keep on
15 the sports tier while going through changes
16 with the league channels." Do you see that?

17 A Right now, yes.

18 Q Right. Now the league channels
19 they're referring to, that's the Baseball
20 Network and the Hockey Network.

21 A Yes.

22 Q Okay. The Baseball Network and

1 the Hockey Network, the changes they're
2 referring to those are being taken from the
3 sports tier and melted down to broad
4 distribution. Correct?

5 A Well, Baseball launched directly
6 on digital classic.

7 Q Right. But the league are coming
8 in and they're not going to be on the sports
9 tier anymore. And particularly the Hockey
10 Channel is being moved down off the sports
11 tier to broad distribution. Correct?

12 A Well, they're being dual
13 illuminated.

14 Q Right. So there's less of a reason
15 for anybody to buy the sports tier if they can
16 get the Hockey Channel on broad penetration.
17 Correct?

18 A Yes and no. My opinion is it's
19 great for the customer because now the
20 customer gets to buy a \$7 package instead of
21 a \$17 package.

22 Q My point is that you've moved the

1 Hockey Channel. The changes being referred to
2 are among others the move of the Hockey
3 Channel down from a sports tier exclusively to
4 broad distribution. Correct?

5 A I'm sorry. Can you repeat your
6 question?

7 Q The changes that are reflected --

8 A Oh here.

9 Q That you mention here. The
10 changes with the league channels --

11 JUDGE: Where are you now?

12 MR. PHILLIPS: I'm sorry, Your
13 Honor. Do you see where it says "Strong
14 Product" there in the middle of Ms. Gaiski's
15 words?

16 JUDGE: You are on 130.

17 MR. PHILLIPS: Yes.

18 JUDGE: Now where does it say
19 "Strong Product"? I see it. Yes, I see it.

20 BY MR. PHILLIPS:

21 Q And we've already identified that
22 the strong product here is the Tennis Channel.

1 And the strong product you keep on the sports
2 tier while going through the changes with the
3 league channels. I think the league channels
4 have been identified as the Hockey and
5 Baseball league channels and also the
6 Basketball Channel. Correct?

7 A That's Right.

8 Q And the Basketball Channel is also
9 being moved from exclusively to sports tier
10 down to a broad distribution, correct?

11 A That's right. It's being dual
12 illuminated.

13 Q Right. So there was a concern
14 that you might alienate some sports tier
15 consumers who are going to find that some of
16 the material that they could pay for to get
17 only in the sports tier they could get as part
18 of their more basic package, correct?

19 A Some folks in the field had a
20 concern that we were devaluing the sports
21 tier.

22 Q And so the idea was to sacrifice

1 The Tennis Channel, leave it up there, while
2 the other ones came down, correct?

3 A Well, we have between 16 and 18
4 channels on the sports tier. Tennis is one of
5 them. That is not dual illuminated. I think
6 there's four or five that are dual
7 illuminated.

8 Q Now -- and Tennis Channel is one
9 of the strongest up there that's not more
10 broadly distributed, correct?

11 A I don't know about that.

12 Q Okay. You don't know either way?

13 A I don't know either way.

14 Q Have you ever studied that to see
15 what the strongest channels that are still up
16 there by themselves in the sports tier?

17 A I have not. Perhaps some in our
18 marketing group has, but I have not.

19 Q Now let's -- if we can keep
20 working down a little bit. Next is cost is a
21 big issue. That's what the West says to me?

22 A Yes.

1 Q I take it in this conversation you
2 didn't talk about the cost of Golf or Versus
3 that we went through a little while ago?

4 A No, sir. This conversation was
5 about Tennis.

6 Q Okay. So as they were being told
7 to keep all costs flat, do you see that
8 statement that you wrote?

9 A Yes.

10 Q And I think you testified, but I
11 want to just clear up because I think my
12 partner, Mr. Smith, was bothering me during
13 that time. They here is Comcast headquarters
14 in Philadelphia, correct?

15 A They are being told to keep all
16 costs flat.

17 Q Right.

18 A They is the division.

19 Q But they're being told by Comcast
20 headquarters in Philadelphia, correct?

21 A I don't know if that's the case.
22 I don't know if it's the division telling them

1 or headquarters telling them.

2 Q Were you ever told to keep costs
3 flat for Golf and Versus?

4 A Not that I recall.

5 Q And in fact, moving the Baseball
6 Channel and the Basketball Channel and the
7 Hockey Channel did increase the amount of
8 money that the local systems had to pay, did
9 it not?

10 A I was not involved in those deals.
11 I think that NHL was almost economically
12 neutral, but yes, NFL and what was the other
13 one you said?

14 Q NHL. I'm sorry, Baseball and --

15 A Baseball went right to D1.

16 Q Right, and Basketball, putting
17 those in a more broadly-distributed platform
18 as opposed to the sports tier would cost more
19 money because you got more subscribers getting
20 them, correct?

21 A That's right. They also came with
22 more product.

1 JUDGE SIPPEL: What do you mean
2 they came with more product?

3 THE WITNESS: So particularly, MLB
4 and NBA were tied to existing deals we had to
5 distribute their out-of-market sports games
6 and both of those networks came to us and said
7 you can no longer distribute those out-of-
8 market sports games unless you do this and you
9 deal with us which is put NLB on D1 and put
10 NBA on D1.

11 BY MR. PHILLIPS:

12 Q And in addition to getting those
13 specialty services, Comcast also had equity,
14 correct?

15 A That's my understanding.

16 Q Now let's keep going down these
17 notes for a second because I have just a few
18 more questions. You have in here the bullet -
19 -

20 A I'm sorry?

21 Q Page two.

22 A I just wanted to say something.

1 NBA, I don't think we got equity in NBA.

2 Q On page two, if I may focus you
3 for a second.

4 A Yes.

5 Q You see down there the bullet that
6 you have sort of not indented where it says
7 everyone says that the systems have different
8 ways to track customer interest? Do you see
9 that bullet?

10 A Yes.

11 Q You didn't know that because no
12 one had told you that, did you?

13 A I believe that because North
14 specifically brought it up in their points, I
15 wanted to loop back around and make sure the
16 other three had ways that they were pulling
17 consumer interest as well.

18 Q But you wrote it down and made a
19 note of it because you didn't know that until
20 North mentioned it, correct?

21 A I think I was asking the question.
22 They gave me the answer and I wrote it down.

1 Q Now -- the answer to the last
2 question, was that pulling or polling? P-U or
3 P-O consumer interest?

4 A I think it was pulling, P-U-L-L.

5 Q Sorry for the interruption. Now
6 Ms. Gaiski, I think you've testified that the
7 decision to reject Tennis Channel's proposal
8 that it made in May of 2009 that the Golf
9 Channel and Versus were completely irrelevant
10 to that -- to the rejection of that proposal,
11 correct?

12 A That is right.

13 Q Golf Channel and Versus were not
14 even considered, considered when that decision
15 was made, correct?

16 A That's right.

17 Q Now as I understand your
18 testimony, when you were considering the
19 appropriate level of carriage of Tennis
20 Channel with respect to that proposal, no one
21 even thought about the carriage level that
22 Golf Channel and Versus were getting, did

1 they?

2 A That's right.

3 Q No one gave any thought at all to
4 the comparable costs of Golf Channel and
5 Versus for the level of distribution they had
6 when you made the decision about Tennis
7 Channel, correct?

8 A That's right.

9 Q No one considered whether Golf
10 Channel and Versus were being treated more
11 favorably than Tennis Channel, did they?

12 A I can't speak for everyone in my
13 department. I did not consider it.

14 Q You didn't. And you didn't
15 consider whether Tennis Channel, in fact, was
16 being treated worse than Golf and Versus at
17 the time you made this decision, correct?

18 A I did not, no.

19 Q Now I want to go back to your
20 notes one more time, one more second, just a
21 few more questions and I'll try to be very
22 brief. You have work product written up here